



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR



Date Mailed: January 16, 2020  
MOAHR Docket No.: 19-012322  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 18, 2019, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Sylvester Williams, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly close the Petitioner's Medical Assistance (MA) due to failure to verify income?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner was an ongoing recipient of MA.
2. On October 8, 2019, the Department sent the Petitioner a Verification Checklist (VCL) which requested the Petitioner provide verification of his income for the last 30 days. The VCL had a due date of October 18, 2019. The Petitioner did receive the VCL. Exhibit A
3. The Petitioner did file a written response to the VCL due to his need for assistance and failure of his caseworker to return his calls for assistance.
4. The Verification did not include a form for the Petitioner's employer to complete.

5. The Department issued a Health Care Coverage Determination Notice on October 24, 2019, advising Petitioner that he was no longer eligible for MA due to failure to verify income, effective December 1, 2019. Exhibit B.
6. The Petitioner requested a timely hearing on November 6, 2019, protesting the closure of the Petitioner's MA.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Department closed the Petitioner's MA on December 1, 2019, due to failure of Petitioner to respond to a Verification Checklist sent to him at his correct address on October 8, 2019, with an October 18, 2019 due date to provide the last 30 days of earned and unearned income.

At the hearing, the Petitioner admitted that he did not respond to the verification and was awaiting receiving a return call from his caseworker who never returned his multiple calls. The Petitioner was also undergoing major surgery and was a first-time MA recipient. Petitioner credibly testified he called the caseworker who was listed on the VCL to seek assistance and help on multiple occasions before the VCL was due and never received a return call. He only heard from the caseworker after he returned from the hospital, and the notice closing his case was sent.

The verification checklist indicates the following:

You must get the proofs to me or call me by the due date above. If you do not, your benefits may be denied, decreased or cancelled. Call me right away if you have questions or problems get the proofs. We may be able to help you get the proofs if you ask for help. If the information must be provided on a Department of Health and Human Services Form the form is enclosed. (emphasis supplied).

If you have questions regarding this notice, please contact your specialist (name and phone number were included on the VCL). Exhibit A.

BAM 130 requires the Department to use collateral contacts or home calls to verify information. In this case the Department did not appear to make any effort to do so. BAM 130 April 2017, p. 1. In addition, BAM 130 provides:

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information. BAM 130, p. 1.

The client must obtain required verification, but the local office must assist if they need help. BAM 130, p. 3.

In addition, the reason for the verification (redetermination or change notification or wage match), was not provided so it is unclear what prompted the VCL request. See Hearing Summary DHS-3050. The Department is also required to explain to the client the availability of the Department's assistance in obtaining information, which was not done in this case other than noted above as there was direct voice contact made. In this case, the client did not indicate refusal to provide verification.

In this case, the Petitioner was unable to obtain an extension or seek help from the Department due to the failure of the Petitioner's caseworker to return any of his calls. Petitioner's testimony in this regard was credible and was un rebutted. He further testified that when he finally reached his caseworker after he left the hospital, she ended the call somewhat abruptly when he noted that he never received a return phone call after many attempts to reach the worker. In addition, a form which could be completed by the employer to indicate whether the Petitioner was employed or when employment ended was not enclosed with the VCL. In this case, due to the failure to respond to the Petitioner's request for assistance, the VCL was not properly processed; and the case should not have been closed. The Petitioner did not indicate a refusal to complete the VCL, he just needed help and also testified he could not drive due to his medical conditions. In this case, the failure of the Petitioner to complete the verifications was due to the Department's failure to extend the VCL due date, the failure to respond to requests to help the Petitioner when requested and failure to enclose the necessary forms for completion by his employer as Petitioner was no longer working. Therefore, the case was not properly processed and must be reinstated and reprocessed to determine Petitioner's eligibility.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's medical assistance.

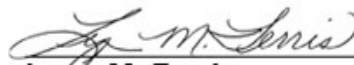
**DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Petitioner's MA case as of the date of closure and process the VCL and provide Petitioner assistance with the completion of the verification request.
2. The Department shall provide the Petitioner written notification of its determination regarding Petitioner's ongoing MA eligibility.

LMF/jaf



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**Lynn M. Ferris**  
Administrative Law Judge  
for Robert Gordon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Linda Gooden  
MDHHS-Oakland-3-Hearings  
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EQAD

**Petitioner**

[REDACTED]  
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